

*Application No. 10/811672*  
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*Amendment*  
*Attorney Docket No. H01.2B-11499-US01*

**Amendments To The Drawings:**

None.

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#### **Remarks**

This Amendment is in response to the final Office Action dated **July 5, 2005**.

The Examiner indicated that the amended drawings include new matter; that the amended specification now includes new matter; objected to the claims; rejected the claims under §112 and rejected the claims under §103. The §103 rejection based on EP '348 and Dannettell was withdrawn.

#### **The Finality Of The Office Action**

As a preliminary matter, applicant does not believe that his office action is properly made final. Applicant overcame the §103 rejection based on EP '348 and Dannettell. However, Wagner 6208926 was of record in the last office action, and no new search was required based on the amendment. Therefore this office action, which includes a brand new §103 rejection, based on the art of record during the first office action, should be non-final.

Applicant respectfully requests that the finality of the current office action be withdrawn.

#### **The New Matter Objections**

The Examiner has indicated that the drawings and specification amendments introduce new matter. Applicant disagrees. It was the Examiner who required that the drawings be amended in the first office action, ¶1, to show the "driving wheel"; the "monitoring device"; the "time delay member" etc.

Clearly these features were part of the application as filed, and claimed in the claims as filed, as the Examiner noted. Applicant is merely conforming the drawings and specification to the claims as filed, as required by the Examiner, and did not introduce any new matter.

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The objection to the amended drawings and amended specification is respectfully traversed.

**§112 Rejections**

Claims 1, 3-4 and 7 have been amended to overcome the §112 rejections.

**§103 Rejections**

The braking of the vehicle is carried out by two different braking forces. One braking force is generated by the driving motor. The other is generated by a brake at the driving wheel. The particularity in the invention is that the amount of the braking force at the brake is only the difference between the desired braking force and the braking force (torque) of the driving motor. Thus, it may be that only the driving motor brakes the vehicle if the desired braking value can be reached by the braking force of the driving motor. Only if the driving motor cannot contribute to the complete braking force is the wheel brake activated.

Wagner deals only with an anti-lock braking system and it is determined whether the nominal deceleration value is reached or not. Depending upon the difference between the nominal and the actual deceleration some measures are initiated in order to achieve the approach of the actual deceleration to the nominal deceleration. Nothing is said in the Wagner specification and the claims that the driving motor is to overtake a braking force. Nothing is said in Wagner that the braking force is divided into one contributed by the driving motor and the other by the brake.

It is true that in Wagner the driving motor is controlled by the generator 38 (figure 1). However, it is explained in the description of figure 2 that in the braking situation no signal is transmitted from line 36 to the braking system. Thus, the Examiner is completely in error when he outlines that there is a conversion device which detects the actual torque of the driving

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motor to derive an actual braking amount value. Furthermore, the Examiner is in error when he states that the braking device is controlled by a second braking signal, with the first braking signal being compared with the actual signal from the conversion device. Thus, Wagner has nothing to do with the invention. The invention is not to control the braking effect by measuring the desired deceleration as is the case in Wagner, rather, the invention has only the intention to contemporarily use two different braking forces to decelerate the vehicle. The amount of deceleration, of course, can be controlled similar to Wagner. However, Wagner does not disclose the use of two different braking forces as required in the present claim 1.

The Examiner admits that Dannettell is only cited to prove that three phase motors are known as driving means for example also for trucks.

Ono is also only dealing with an anti-lock braking system and wishes to obtain an optimal friction torque with respect to a slip speed. When the Examiner points to column 58, lines 19 to 25, for proving that Ono discloses the conversion of a motor torque into a braking signal, this is also in error. There is only said that torque instruction signals received from braking-force servo means are converted into instruction signals to be sent to control solenoid valves which control the braking forces of the wheels. There is no indication that this conversion refers to the conversion of the torque of a driving motor into an actual braking force signal. Thus, also Ono is far away from the invention.

Claims 1-7, as currently amended, are believed to be in condition for allowance. The Examiner is respectfully requested to enter the amendment after final, both because the amendments only fix §112 problems and because the finality of the current office action is requested to be withdrawn.

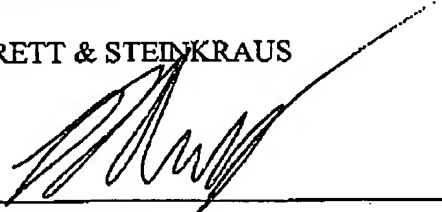
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Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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By:   
Richard A. Arrett  
Registration No.: 33153

6109 Blue Circle Drive, Suite 2000  
Minnetonka, MN 55343-9185  
Telephone: (952) 563-3000  
Facsimile: (952) 563-3001

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